

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ITEM # 20 I.D. # 9836
ENERGY DIVISION
RESOLUTION G-3450
October 28, 2010

R E S O L U T I O N

Resolution G-3450. Pacific Gas and Electric Company (PG&E) seeks to revise Rule 9 in its gas and electric tariffs, *Rendering and Payment of Bills*, to immediately provide bill relief to customers impacted directly by the September 9, 2010 San Bruno gas pipeline explosion.

PROPOSED OUTCOME: PG&E's proposal is approved.

ESTIMATED COST: None

By Advice Letter (AL) 3155-G/3739-E, filed on September 28, 2010
and AL 3155-G-A/3739-E-A, filed on October 20, 2010.

SUMMARY

PG&E's request to revise Rule 9 in its gas and electric tariffs to provide bill relief to its customers impacted directly by the San Bruno explosion is approved. The bill relief will benefit the designated customers by reducing the financial burden they face in their efforts to recover from the incident. It is also consistent with the aid provided to those residents and businesses covered within in the scope of Executive Order S-14-10, issued by the Governor's Office following the San Bruno explosion and Assembly Bill (AB) X6 11, which was approved by the Governor on October 19, 2010, and provides further relief for those within the impacted area. The bill relief will be funded by PG&E's shareholders.

PG&E shall permit the Commission or its designee to fully audit the utility's records and accounts related to the bill relief, including the San Bruno Relief Fund. PG&E shall also issue a written report to the Commission no later than 60 days following the termination of the bill relief program describing program results and certifying it was implemented in accordance with the supplemental

AL and Rule 9 tariff revisions adopted herein and all modifications to the bill relief program approved in the future if, in fact, that is the case.

BACKGROUND

On September 9, 2010, a segment of a PG&E natural gas transmission pipeline located in San Bruno ruptured and exploded. This incident killed 8 residents and injured others. At least 37 homes were destroyed and many damaged, leaving some residents displaced. In terms of magnitude, the San Bruno explosion may be the largest transmission pipeline explosion in an urban/suburban setting in U.S. history, certainly the most catastrophic in California. The cause of the explosion is being investigated by the National Transportation Safety Board in cooperation with the Commission.

Acting Governor Abel Maldonado issued Executive Order S-14-10 after proclaiming that a State of Emergency existed at the San Bruno explosion site and surrounding area.¹ This action was taken to provide immediate assistance to those affected by the catastrophe and to coordinate the emergency relief efforts of various state agencies. Among the provisions of the Executive Order was the suspension of various fees residents near the blast site would have incurred for replacing certain documents such as birth certificates and driver licenses that may have been destroyed or lost due to the explosion and ensuing fire.

On October 19, Governor Schwarzenegger signed ABX6 11 into law, which provides further relief for those within the impacted area. ABX6 11 supplements the proclaimed disaster assistance and relief by providing necessary fiscal assistance and tax relief to affected jurisdictions and persons to allow them to maintain essential basic services and repair damage to, and restore, their homes and businesses.

PG&E Rule 9 in its gas and electric tariffs contain provisions regarding the payment of utility bills. Under the terms and conditions in the Rules, PG&E bills for electric and gas service are due and payable upon presentation. The

¹ Go to: <http://gov.ca.gov/index.php?/executive-order/15979/>

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rules do not provide an exception to this requirement to account for situations such as the San Bruno explosion.

In AL 3155-G-A/3739-E-A, PG&E seeks to revise Rule 9 in its gas and electric tariffs to provide bill relief to its customers impacted directly by the San Bruno explosion. This supplemental AL supersedes AL 3155-G/3739-E in its entirety.²

PG&E identified 374 customers that were impacted directly by the San Bruno explosion and thus eligible for the bill relief.³

The bill relief applies to all aspects of the otherwise applicable PG&E charges and bills that would have been presented to the affected customers, including, but not limited to, usage charges and applicable taxes. The bill relief will also apply on any outstanding account balance as of September 10, 2010.⁴

Customers whose homes were destroyed or rendered uninhabitable as determined by the City of San Bruno will receive bill relief extending through the January 2012 billing cycle with the resumption of regular billing to occur with the February 2012 billing cycle. The bill relief will apply at their home at the explosion site as well as at one temporary housing location. PG&E will address complex or unique situations on a case-by-case basis.

² In AL 3155-G/3739-E, PG&E requested a deviation to Rule 9 in its gas and electric tariffs in order to provide bill relief to the affected customers. In the supplement to AL 3155-G/3739-E, PG&E modified its request and is asking for a revision to the rules in order to incorporate a more detailed description of the bill relief plan in its tariffs.

³ In AL 3155-G-A/3739-E-A, PG&E said that the 374 customers are located in the impact area designated by the City of San Bruno and County of San Mateo. This impact area is bounded by Sneath Lane to the north, San Bruno Avenue to the south, Skyline Boulevard to the west, and Crestmore Canyon Open Space to the east. One non-residential customer was located in the impact area. The non-residential customer is a San Bruno Fire Department stationhouse, which will receive bill relief through December 2010. A map appended to AL 3155-G-A/3739-E-A graphically shows this area with the location of each customer and street address.

⁴ In AL 3155-G-A/3739-E-A, PG&E said that for bills paid through auto-pay after the September 9, 2010 incident, credits will be provided and applied in the next billing month when regular billing resumes. All energy usage will be calculated in the Customer Care and Billing system to determine monthly billing charges, which will be adjusted by a relief credit adjustment. This adjustment would include actual energy charges and/or Balance Payment Plan amounts. However, any REACH donations will not be billed or adjusted off. PG&E notes that none of the 374 customers under the bill relief plan are ClimateSmart program participants.

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Customers whose homes were not destroyed or rendered uninhabitable will receive bill relief through the December 2010 billing cycle.

PG&E shareholders will bear the expense of the bill relief program and the utility stated that it will not seek recovery of these costs from its ratepayers or the affected customers in the future. Additionally, the bill relief amounts will not be used to forecast uncollectibles for ratemaking purposes or in the development of PG&E's Franchise Fee and Uncollectibles factor.⁵

PG&E has already been conditionally providing bill relief to the affected customers and requests that the Supplemental AL become effective as of September 10, 2010.

Additionally, PG&E asks that the Commission find that using shareholder funds for the bill relief does not violate Public Utilities (P.U.) Code Section 453 concerning the granting of a privilege or advantage to any corporation or person.

PG&E's request to waive the protest period for the supplemental AL was approved by the Commission's Energy Division (ED).

NOTICE

Notice of AL 3155-G/3739-E was made by publication in the Commission's Daily Calendar. PG&E stated in the AL that, in accordance with General Order 96-B,

⁵ In AL 3155-G-A/3739-E-A, under "Accounting Procedure", PG&E said that it will not seek recovery of these shareholder funds from its ratepayers from the affected customers at a later date. The billings for the affected customers have been posted to the affected customers' accounts, but have been offset within each customer's account with a bill relief credit zeroing out any balance owed. Bills outstanding at the time of the incident, and those generated in the future, up to the program expiration date, will be handled this way. The San Bruno relief credit is a customer-side adjustment transparent to the billed revenues used in balancing accounts. The bill relief credit adjustments will be offset by a debit recorded in a below the line account to be funded by shareholders and will be tracked within its accounting system with a specific tracking order set up for this purpose. The exact amount of the bill relief credits given is being tracked by PG&E's billing department. The supplemental AL contains additional details about the accounting procedure.

In PG&E's October 11, 2010 response to a ED data request (submitted prior to the filing of the supplemental AL), PG&E indicated that bill credit adjustments would be recorded to the San Bruno Relief Fund.

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Section IV, a copy of the AL was sent to parties shown on a list attached to the AL. This list did not include PG&E customers impacted directly by the San Bruno explosion. On October 18, 2010, ED notified PG&E that, pursuant to General Order 96-B, Energy Industry Rule 3 (1), the utility was required to serve the AL on those customers that would be subject to the Rule 9 deviation. On October 13, 2010, PG&E informed ED that all 374 San Bruno customers in the impact area were made aware of the AL as of October 11, 2010, the last day to file a timely protest. This effort included PG&E distributing a cover letter with the AL summarizing its proposal and using utility personnel to tell displaced customers about the advice letter and inform them it could be found at the utility's dedicated San Bruno website which contains information specifically related to the incident.

Notice of AL 3155-G-A/3739-E-A was made by publication in the Commission's Daily Calendar. PG&E stated in the AL that, in accordance with General Order 96-B, Section IV, a copy of the AL was sent to parties shown on a list attached to the AL. On October 21, 2010, PG&E informed ED that it served the supplemental AL on the affected customers who were not displaced, and is in the process of confirming the current addresses of the approximately 75 displaced customers. On October 26, 2010, PG&E notified ED that it had served the supplemental AL on 347 of the 374 affected customers and that it intends to serve the remaining customers via e-mails to the attorneys listed as the customers' point of contact by the close of business on October 26, 2010.

PROTESTS

The protest period was reduced for AL 3155-G/3739-E and waived for AL 3155-G-A/3739-E-A as described below. AL 3155-G/3739-E was not protested within the reduced protest period.

DISCUSSION

The Commission is determined to take every step it can, consistent with its statutory authority, to mitigate the harm caused by the San Bruno explosion and to help return the community back to normalcy. PG&E has asked for our approval of its bill relief program in response to the San Bruno explosion. To expeditiously consider this request, the Director of the Commission's Energy Division acted to reduce the protest period for AL 3155-G/3739-E, to waive the protest period for the supplemental AL pursuant to GO 96-B Section 1.3 because good cause was shown that the Commission should act expeditiously. P.U Code

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Section 311(g)(2) permits the Commission to waive the normal 30-day comment period “for an uncontested matter in which the decision grants the relief requested.” This AL was uncontested and this Resolution grants the relief requested. Thus, the 30-day comment period is waived. Because the protest period was reduced, the Commission is also relying on the Commission’s Rules of Practice and Procedure (Rules) 14.6(6) to waive the comment period. Rule 14.6(6) permits the Commission to waive the 30-day comment period for “Requests for relief based on extraordinary conditions in which time is of the essence.” The Commission has waived the customary 30 day comment period on this resolution because the San Bruno explosion was an extraordinary event and, consistent with state government actions, the Commission has determined that relief should be extended to those affected as soon as possible.

PG&E’s bill relief benefits those utility customers impacted directly by the San Bruno explosion. The bill relief allows these customers to avoid paying any outstanding PG&E charges as of September 10, 2010 and any bills the utility would have issued to them, including at the temporary living location of displaced customers, over the specified timeframe. Under the program, PG&E’s shareholders will absorb the cost of the bill relief. This will benefit the designated PG&E customers because it would reduce the financial burden they face in their efforts to recover from the effects of the San Bruno explosion.

PG&E’s plan to provide extended bill relief according to whether a customer was displaced or not is reasonable. For displaced customers, PG&E would extend the bill relief to the January 2012 billing cycle and it would apply both to the destroyed or uninhabitable residence as well as one temporary location. PG&E would also have the flexibility to respond to unusual situations. For non-displaced customers, the bill relief would only apply to their residence and terminate after the December 2010 billing cycle.

Extending the bill relief to displaced customers for a longer term is appropriate because they suffered the loss of their home, which may take many months to rebuild. It is also reasonable that the bill relief cover their temporary living situation, because the PG&E bill for their uninhabitable location would likely be a small amount consisting only of charges unrelated to energy use.

PG&E’s bill relief is consistent with Executive Order S-14-10 issued by the Governor’s Office following the San Bruno explosion and ABX6 11. The magnitude of the San Bruno explosion prompted the Governor’s Office to declare a State of Emergency to immediately help those affected by the San

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Bruno explosion. This assistance included the suspension of fees for the replacement of certain important documents. ABX6 11 supplements the proclaimed disaster assistance and relief by providing necessary fiscal assistance and tax relief to affected jurisdictions and persons to allow them to maintain essential basic services and repair damage to, and restore, their homes and businesses. PG&E's bill relief is similar in nature to the fee suspension and fiscal relief provided by the State; the utility's proposal is appropriate in light of the State's response to the tragedy.

PG&E's requested Rule 9 revisions in its gas and electric tariffs to provide bill relief are reasonable and are approved. PG&E shall allow the Commission or its designee to audit the utility's records and accounts related to the bill relief, including the San Bruno Relief Fund, to ensure that its shareholders have not been reimbursed by ratepayers for the bill relief's costs. Our approval is based upon the benefit customers will derive from the bill relief and because the bill relief is an appropriate response to the San Bruno explosion. PG&E also will institute accounting procedures to track the cost of the bill relief so that shareholders will not be reimbursed by the utility's ratepayers. To ensure that this is the case, PG&E shall permit the Commission or its designee to fully audit its records and accounts related to the bill relief, including the San Bruno Relief Fund.

Within 60 days following the conclusion of the bill relief program, PG&E shall issue a written report to the Commission describing the results of the program. This report shall identify the total amount of the bill relief extended to the affected customers and include other information necessary to fully describe the results of the program. In the report, PG&E shall also certify that the program was implemented in accordance with the supplemental AL and Rule 9 tariff provisions adopted in this resolution and all modifications to the bill relief program approved in the future if, in fact, that is the case.

PG&E's service of AL 3155-G/3739-E did not comply with General Order 96-B, Energy Industry Rule 3 (1). However, PG&E's efforts to serve the AL on the affected customers are adequate under the circumstances. PG&E failed to serve the AL to customers subject to the bill relief in a timely manner and also did not use permissible methods of service in all cases (i.e., PG&E told displaced customers about the AL). However, the San Bruno explosion was an unusual event and created a situation PG&E would not typically encounter serving an AL to the appropriate parties. In particular, PG&E needed to determine which customers were impacted directly by the incident as well as make arrangements

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to distribute the AL to each displaced customer. The utility managed to overcome such complications and either provided the AL or notified every affected customer about the AL before the protest period lapsed. Accordingly, we find that PG&E's efforts to serve the AL were adequate.

PG&E's bill relief plan does not violate P.U. Code section 453. P.U. Code Section 453(a) states, "No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage." Although couched in general terms of 'any' prejudice or disadvantage [section 453(a)], from the outset, has been interpreted, consistent with traditional common law, principles, to prohibit only unjust or unreasonable differential treatment." (*Gay Law Students Assn v. Pacific Tel. & Tel. Co.*, 24 Cal. 3d 458, 595 P.2d 592.) "Unless discrimination in some form is present, section 453, subsection (a), simply does not apply." (*Andersen v. Pac. Bell*, 204 Cal. App. 3d 277, 285.) In this instance, consistent with the other actions of the state, the Commission finds that it is reasonable for PG&E to grant rate relief for those directly impacted by the San Bruno Fire. The Commission also finds that PG&E is treating similarly situated customers within the impacted area similarly. Thus, PG&E's bill relief proposal is not a violation of P.U. Code Section 453.

Receipt of the relief granted by this resolution and any future Commission approved revisions to PG&E's bill relief program shall in no way affect or prejudice any claims that any of the customers receiving the relief do or may have against PG&E.

Any minor changes PG&E requests to the bill relief program adopted herein filed by AL may be approved or rejected by ED staff based upon its assessment of the request's reasonableness and if no valid protests were filed.

COMMENTS

P.U. Code Section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. P.U. Code Section 311(g)(2) provides that this 30-day period may be reduced/waived by Commission adopted rule. The Comment period has been waived pursuant to P.U. Code Section 311(g)(2) and Rule 14.6(6) for the reasons described above.

FINDINGS AND CONCLUSIONS

1. PG&E AL 3155-G-A/3739-E-A supersedes AL 3155-G/3739-E in its entirety, and requests a revision to Rule 9 of its gas and electric tariffs to provide bill relief to its customers impacted directly by the San Bruno explosion.
2. PG&E's Gas and Electric Rule 9 revision and bill relief will benefit its customers directly impacted by the September 9, 2010 San Bruno explosion by reducing the designated customers' financial burden.
3. PG&E's service of AL 3155-G/3739-E did not comply with General Order 96-B, Energy Industry Rule 3 (1). PG&E's efforts to serve the AL on the affected customers are adequate under the circumstances because of its efforts to provide actual notice to the affected customers.
4. PG&E's requested gas and electric Rule 9 revision and bill relief is consistent with Executive Order S-14-10 issued by the Governor's Office to aid those residents and businesses affected by the September 9, 2010 San Bruno explosion; and Assembly Bill (AB) X6 11, which was approved by the Governor on October 19, 2010, and provides further relief for those within the impacted area.
5. PG&E's bill relief plan does not violate P.U. Code section 453 because it is reasonable for PG&E to offer customers impacted directly by the San Bruno explosion bill relief, and the bill relief plan treats similarly situated customers similarly.
6. Receipt of the relief granted by this resolution shall in no way affect or prejudice any claims that any of the customers receiving the relief do or may have against PG&E.
7. The Comment period has been waived pursuant to P.U. Code Section 311(g)(2) and Rule 14.6(6) because this is an uncontested matter granting the relief requested, and the San Bruno explosion was an extraordinary event. The Commission's efforts to act on this matter expeditiously are consistent with other, recent state actions.

THEREFORE IT IS ORDERED THAT:

1. PG&E AL 3155-G-A/3739-E-A is approved and effective September 10, 2010.

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2. PG&E shall permit the Commission or its designee to fully audit its records and accounts related to the bill relief, including the San Bruno Relief Fund.
3. Within 60 days following the termination of the bill relief program approved by this Resolution, PG&E shall issue a written report to the Commission describing the results of the program and to certify it was implemented in accordance with the supplemental AL and Rule 9 tariff revisions approved herein and all modifications to the bill relief program adopted in the future if, in fact, that is the case.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on October 28, 2010; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director